

ARKANSAS COURT OF APPEALS

DIVISION II

No. CA08-328

DIXIE CAFE 106 and
CROCKETT ADJUSTMENT
INSURANCE,

APPELLANTS

V.

THERESA GROSS,

APPELLEE

Opinion Delivered 12 NOVEMBER 2008

APPEAL FROM THE WORKERS'
COMPENSATION COMMISSION
[NO. F305074]

AFFIRMED

D.P. MARSHALL JR., Judge

While working as an assistant manager at Dixie Cafe, Theresa Gross sustained a compensable injury: her hand was caught in a large Hobart Mixer when she was making bread. Gross had carpal tunnel release surgery, which Dixie Cafe paid for, on each of her hands. But Gross continued to experience pain and problems with her hands. She left Dixie Cafe and opened her own restaurant. Gross's doctor eventually recommended more surgery. Dixie Cafe controverted the claim. The Commission, adopting the ALJ's decision, awarded Gross more benefits. The Commission held that the additional medical treatment was reasonably necessary and connected to Gross's original injury.

Dixie Cafe appeals, arguing that the additional medical treatment is not connected to Gross's original compensable injury. It characterizes her current

problems with her hands as an aggravation rather than a recurrence. “A recurrence exists when the second complication is a natural and probable consequence of the prior injury; it is not a new injury but merely another period of incapacitation resulting from a previous injury.” *King v. Peopleworks*, 97 Ark. App. 105, 111, 244 S.W.3d 729, 734 (2006). An aggravation, on the other hand, is an entirely new injury that must independently meet the requirements for compensability. *Ibid.*

Dixie Cafe contends that Gross had relatively few medical complaints about her hands until after she opened her own restaurant, Le Lampes, in late 2003. In February 2004, Dr. Varela, who performed carpal tunnel release on Gross’s left hand, noted that Gross had “severe callus formation” on her hands and that she was “performing a lot of hard work—she just bought a restaurant.” Dixie Cafe also cites the testimony from a Le Lampes employee, who was unsure whether Gross wore hand braces when the restaurant opened, but remembered her wearing them after Le Lampes had been open for several months. Another employee, whom Gross fired from Le Lampes, testified that she witnessed Gross using her hands a lot and that she did not see Gross wear any hand braces during the first few months that the restaurant was open. Dixie Cafe argues that Gross’s work at Le Lampes caused an aggravation—an entirely new injury—for which it is not responsible. In the alternative, Dixie Cafe argues that Gross’s current problems are connected to her cervical disc disease, not her original injury. Further, Dixie Cafe points to Dr. Varela’s September 2004 opinion that Gross

had reached maximum medical improvement and that her current complaints of bilateral hand pain were not related to her preexisting or any ongoing carpal tunnel syndrome.

Gross presented contrary evidence. The medical records from Gross's various doctors show that she made continued complaints regarding her hands both before and after her carpal tunnel surgeries. Gross, her sister (the manager of Le Lampes), and another Le Lampes employee all testified that Gross was not constantly using her hands or performing manual labor at her restaurant. Also, Dr. Moore—from whom Gross sought a second opinion in October 2004—testified that Gross's clinical history and physical examination were consistent with persistent or recurrent carpal tunnel syndrome. Dr. Moore referred Gross to Dr. Rutherford, a neurologist, for a nerve conduction study. The study revealed moderate carpal tunnel syndrome in both of Gross's hands. At this point, Dr. Moore and Dr. Rutherford recommended additional surgery. Dr. Moore opined that the surgery was reasonable and necessary given Gross's symptoms. Dr. Moore also related her current symptoms to her previous carpal tunnel surgeries and to the original compensable injury.

The ALJ specifically noted that she gave only minimal weight to Dr. Varela's opinion. The ALJ also held that the evidence was insufficient to establish that Gross's work at Le Lampes constituted an independent intervening cause. Relying on Dr. Moore's opinion, Dr. Rutherford's opinion, and the testimony of Gross, Gross's sister,

and others, the ALJ determined that the further treatment was necessary, reasonable, and causally connected to Gross's original injury.

We view the evidence in the light most favorable to the Commission's decision, which adopted the ALJ's decision. *Cedar Chemical Co. v. Knight*, 99 Ark. App. 162, 165, 258 S.W.3d 394, 396 (2007). We affirm if the Commission's decision is supported by substantial evidence. *Ibid.* Substantial evidence exists if reasonable minds could reach the Commission's conclusion. *Ibid.* Here, the Commission gave greater weight to Dr. Moore's opinion and Dr. Rutherford's opinion and gave little weight to Dr. Varela's opinion. The Commission also determined, after weighing the various testimony, that the work Gross performed in opening Le Lampes did not constitute an independent intervening cause. It is the Commission's duty, not ours, to weigh the medical evidence, resolve conflicting medical evidence, determine the credibility of witnesses, and weigh the witnesses' testimony. *Ibid.* Reasonable minds could reach the Commission's conclusion. Substantial evidence therefore supports the Commission's decision.

Affirmed.

BIRD and BAKER, JJ., agree.